

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2		
3	In the Matter of	)
4		)
5	MUR 7394	)
6	O'Donnell for Congress and Thomas Weddell	)
7	in his official capacity as treasurer,	)
8	Mediacom Communications Corporation,	)
9	Dana Distributors, Inc.,	)
10	Dutchess Manor, Inc.,	)
11	Maxwell Security Group, LLC, and	)
12	Cameo Hills Ltd.	)
13		)
14		

DISMISSAL AND  
CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY  
SYSTEM

15 **GENERAL COUNSEL'S REPORT**

16 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a  
17 basis to allocate its resources and decide which matters to pursue. These criteria include, without  
18 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking  
19 into account both the type of activity and the amount in violation; (2) the apparent impact the  
20 alleged violation may have had on the electoral process; (3) the complexity of the legal issues  
21 raised in the matter; and (4) recent trends in potential violations of the Federal Election  
22 Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the  
23 Commission's policy that pursuing relatively low-rated matters on the Enforcement docket  
24 warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances.

25 The Office of General Counsel has scored MUR 7394 as a low-rated matter and has  
26 determined that it should not be referred to the Alternative Dispute Resolution Office.<sup>1</sup> For the  
27 reasons set forth below, we recommend that the Commission find no reason to believe that

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<sup>1</sup> The EPS rating information is as follows: Complaint Filed: May 23, 2018. Maxwell Security Group, LLC Response Filed: June 4, 2018. Dana Distributors, Inc. Response Filed: June 8, 2018. Mediacom Communications Corporation Response Filed: June 13, 2018. Dutchess Manor, Inc. Response Filed: June 14, 2018. O'Donnell for Congress and Thomas Weddell Response Filed: June 18, 2018. Cameo Hills, Ltd. Response Filed: June 15, 2018.

1 Mediacom Communications Corporation (“Mediacom Communications”), Dana Distributors,  
2 Inc. (“Dana Distributors”), or Dutchess Manor, Inc. (“Dutchess Manor”) violated 52 U.S.C.  
3 § 30118(a) and 11 C.F.R. § 114.2(b); dismiss the allegations that O’Donnell for Congress and  
4 Thomas Weddell in his official capacity as treasurer (“the Committee”)<sup>2</sup> violated 52 U.S.C.  
5 §§ 30104(b), 30118(a) and 11 C.F.R. §§ 104.11(b), 114.2(b); and dismiss the allegation that  
6 Maxwell Security Group, LLC (“Maxwell Security”), and Cameo Hills Ltd. (“Cameo Hills”)  
7 violated 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(b).

8 The Complaint alleges that the Committee accepted and failed to report prohibited  
9 corporate in-kind contributions in the form of free event space from three corporations,  
10 Mediacom Communications, Dana Distributors, and Dutchess Manor, and that it accepted  
11 prohibited monetary contributions from Maxwell Security and Cameo Hills.<sup>3</sup>

12 The Committee responds that the candidate paid Mediacom Communications from his  
13 personal funds, and the Committee will amend its April 2018 Quarterly Report to disclose this  
14 expenditure.<sup>4</sup> The Committee asserts that it did not report payments to Dana Distributors and  
15 Dutchess Manor on its April 2018 Quarterly Report because it did not receive invoices until  
16 after the reporting period, and it reported the payments on its 2018 Pre-Primary Report.<sup>5</sup>

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<sup>2</sup> James O’Donnell is a candidate for the U.S. House of Representatives for New York’s Eighteenth Congressional District. O’Donnell for Congress is his principal campaign committee.

<sup>3</sup> Compl. at 1-3 (May 23, 2018).

<sup>4</sup> Committee Resp. at 1 (June 18, 2018). As of the date of this report, the Committee has not amended its April 2018 Quarterly Report.

<sup>5</sup> *Id.*; see also O’Donnell for Congress 2018 Pre-Primary Report, <http://docquery.fec.gov/pdf/092/201806149113696092/201806149113696092.pdf> at 20.

1 Mediacom Communications, Dana Distributors, and Dutchess Manor each state that they were  
2 paid for the Committee's use of their event spaces.<sup>6</sup>

3 Maxwell Security and Cameo Hills both assert that they did not know that corporate  
4 contributions were prohibited, and its owners replaced the corporate contributions with personal  
5 funds.<sup>7</sup> The Committee states that it refunded these contributions.<sup>8</sup>

6 The Act and Commission regulations prohibit a candidate's principal campaign  
7 committee from accepting corporate contributions, and prohibit a corporation from making a  
8 contribution to a candidate's principal campaign committee.<sup>9</sup> The provision of any goods or  
9 services without charge or at a charge that is less than the usual and normal charge for such  
10 goods or services is an in-kind contribution.<sup>10</sup> The Act and Commission regulations further  
11 require a candidate's principal campaign committee to disclose the total amount of all  
12 disbursements made during the reporting period, and to report the full name and address of each  
13 person to whom an expenditure in an aggregate amount or value in excess of \$200 within the  
14 election cycle is made along with the date, amount, and purpose of each expenditure.<sup>11</sup> In  
15 addition, Commission regulations require a candidate's principal campaign committee to report

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<sup>6</sup> Mediacom Communications Corp. Resp. at 2, Ex. B (June 13, 2018); Dana Distributors, Inc. Resp. at 1, Ex. A (June 8, 2018); Dutchess Manor, Inc. Resp. at 1 (June 14, 2018). Mediacom Communication further asserts that it regularly provides free use of its meeting space to community groups and, therefore, use of its meeting space would not constitute a contribution pursuant to 11 C.F.R. §§ 100.76 and 100.136.

<sup>7</sup> Maxwell Security Resp. at 1 (June 4, 2018); Cameo Hills Resp. at 1 (June 15, 2018).

<sup>8</sup> Committee Resp. at 1.

<sup>9</sup> 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

<sup>10</sup> 11 C.F.R. § 100.52(d).

<sup>11</sup> 52 U.S.C. § 30104(b)(4); 11 C.F.R. § 104.3(b).

1 debts or obligations in excess of \$500 as of the date on which the debt or obligation is  
2 incurred.<sup>12</sup>

3 The available information indicates that either the Committee or the Candidate paid  
4 Mediacom Communications, Dana Distributors, or Dutchess Manor to use their spaces.  
5 Therefore, we recommend that the Commission find no reason to believe that Mediacom  
6 Communications, Dana Distributors, or Dutchess Manor violated 52 U.S.C. § 30118(a) and 11  
7 C.F.R. § 114.2(b). However, the available information shows that the Committee incurred a  
8 \$500 debt to Dutchess Manor for event space on or before March 25, 2018 when the event was  
9 held, but the Committee did not report the debt on its April 2018 Quarterly Report.<sup>13</sup> Given the  
10 modest amount at issue and the fact that the Committee reported payment to Dutchess Manor on  
11 its 2018 Pre-Primary Report, we recommend that the Commission dismiss the allegation that the  
12 Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.11(b).<sup>14</sup>

13 Maxwell Security and Cameo Hills admit making, and the Committee admits accepting,  
14 corporate contributions. Given the relatively modest amounts at issue and the remedial actions  
15 taken, we recommend that the Commission dismiss the allegations that Maxwell Security,  
16 Cameo Hills, and the Committee violated 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(b).<sup>15</sup>

### 17 RECOMMENDATIONS

18  
19 1. Find no reason to believe that Mediacom Communications Corporation, Dana  
20 Distributors, Inc., or Dutchess Manor, Inc. violated 52 U.S.C. § 30118(a) and 11  
21 C.F.R. § 114.2(b);

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<sup>12</sup> 11 C.F.R. § 104.11(b); *see also* 52 U.S.C. § 30104(b)(8).

<sup>13</sup> The available information shows that Dana Distributors' event space cost \$150. Dana Distributors Resp. at 1, Ex. 1; Committee Resp. at 1, Ex. 1. Since the amount was less than \$500, the Committee was not required to report the debt or obligation until the time payment was made or not later than 60 days after such obligation was incurred, whichever comes first. 11 C.F.R. § 104.11(b).

<sup>14</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

<sup>15</sup> *Id.*

2. Dismiss the allegations that O'Donnell for Congress and Thomas Weddell in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30118(a) and 11 C.F.R. §§ 104.11(b), 114.2(b) pursuant to the Commission's prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985);
3. Dismiss the allegation that Maxwell Security Group, LLC and Cameo Hills Ltd., violated 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(b), pursuant to the Commission's prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985);
4. Approve the attached Factual and Legal Analysis and the appropriate letters; and
5. Close the file as to all respondents.

Lisa J. Stevenson  
Acting General Counsel

Kathleen M. Guith  
Associate General Counsel

July 11, 2018

Date

BY:

  
Stephen Gura

Deputy Associate General Counsel



Jeff S. Jordan  
Assistant General Counsel

  
Kristina M. Portner  
Attorney

Attachment:  
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

1  
2  
3 **RESPONDENTS:** O'Donnell for Congress and MUR 7394  
4 Thomas Weddell in his official capacity as treasurer,  
5 Mediacom Communications Corporation,  
6 Dana Distributors, Inc.,  
7 Dutchess Manor, Inc.,  
8 Maxwell Security Group, LLC, and  
9 Cameo Hills Ltd.  
10

11 This matter was generated by a complaint alleging violations of the Federal Election  
12 Campaign Act of 1971, as amended ("the Act") and Commission regulations by O'Donnell for  
13 Congress and Thomas Weddell in his official capacity as treasurer ("the Committee"),  
14 Mediacom Communications Corporation ("Mediacom Communications"), Dana Distributors,  
15 Inc. ("Dana Distributors"), Dutchess Manor, Inc. ("Dutchess Manor"), Maxwell Security Group,  
16 LLC ("Maxwell Security"), and Cameo Hills Ltd ("Cameo Hills"). It was scored as a low-rated  
17 matter under the Enforcement Priority System, by which the Commission uses formal scoring  
18 criteria as a basis to allocate its resources and decide which matters to pursue.

19 The Complaint alleges that the Committee accepted and failed to report prohibited  
20 corporate in-kind contributions in the form of free event space from three corporations,  
21 Mediacom Communications, Dana Distributors, and Dutchess Manor, and that it accepted  
22 prohibited monetary contributions from Maxwell Security and Cameo Hills.<sup>1</sup>

23 The Committee responds that the candidate paid Mediacom Communications from his  
24 personal funds, and the Committee will amend its April 2018 Quarterly Report to disclose this  
25 expenditure.<sup>2</sup> The Committee asserts that it did not report payments to Dana Distributors and

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<sup>1</sup> Compl. at 1-3 (May 23, 2018).

<sup>2</sup> Committee Resp. at 1 (June 18, 2018). As of the date of this report, the Committee has not amended its April 2018 Quarterly Report.

1 Dutchess Manor on its April 2018 Quarterly Report because it did not receive invoices until  
2 after the reporting period, and it reported the payments on its 2018 Pre-Primary Report.<sup>3</sup>  
3 Mediacom Communications, Dana Distributors, and Dutchess Manor each state that they were  
4 paid for the Committee's use of their event spaces.<sup>4</sup>

5 Maxwell Security and Cameo Hills both assert that they did not know that corporate  
6 contributions were prohibited, and its owners replaced the corporate contributions with personal  
7 funds.<sup>5</sup> The Committee states that it refunded these contributions.<sup>6</sup>

8 The Act and Commission regulations prohibit a candidate's principal campaign  
9 committee from accepting corporate contributions, and prohibit a corporation from making a  
10 contribution to a candidate's principal campaign committee.<sup>7</sup> The provision of any goods or  
11 services without charge or at a charge that is less than the usual and normal charge for such  
12 goods or services is an in-kind contribution.<sup>8</sup> The Act and Commission regulations further  
13 require a candidate's principal campaign committee to disclose the total amount of all  
14 disbursements made during the reporting period, and to report the full name and address of each  
15 person to whom an expenditure in an aggregate amount or value in excess of \$200 within the

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<sup>3</sup> *Id.*; see also O'Donnell for Congress 2018 Pre-Primary Report, <http://docquery.fec.gov/pdf/092/201806149113696092/201806149113696092.pdf> at 20.

<sup>4</sup> Mediacom Communications Corp. Resp. at 2, Ex. B (June 13, 2018); Dana Distributors, Inc. Resp. at 1, Ex. A (June 8, 2018); Dutchess Manor, Inc. Resp. at 1 (June 14, 2018). Mediacom Communication further asserts that it regularly provides free use of its meeting space to community groups and, therefore, use of its meeting space would not constitute a contribution pursuant to 11 C.F.R. §§ 100.76 and 100.136.

<sup>5</sup> Maxwell Security Resp. at 1 (June 4, 2018); Cameo Hills Resp. at 1 (June 15, 2018).

<sup>6</sup> Committee Resp. at 1.

<sup>7</sup> 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

<sup>8</sup> 11 C.F.R. § 100.52(d).

1 election cycle is made along with the date, amount, and purpose of each expenditure.<sup>9</sup> In  
2 addition, Commission regulations require a candidate's principal campaign committee to report  
3 debts or obligations in excess of \$500 as of the date on which the debt or obligation is  
4 incurred.<sup>10</sup>

5 The available information indicates that either the Committee or the Candidate paid  
6 Mediacom Communications, Dana Distributors, or Dutchess Manor to use their spaces.  
7 Therefore, the Commission finds no reason to believe that Mediacom Communications, Dana  
8 Distributors, or Dutchess Manor violated 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(b).  
9 However, the available information shows that the Committee incurred a \$500 debt to Dutchess  
10 Manor for event space on or before March 25, 2018 when the event was held, but the Committee  
11 did not report the debt on its April 2018 Quarterly Report.<sup>11</sup> In furtherance of the Commission's  
12 priorities relative to other matters pending on the Enforcement docket, the modest amount at  
13 issue, and the fact that the Committee reported payment to Dutchess Manor on its 2018 Pre-  
14 Primary Report, the Commission exercises its prosecutorial discretion and dismisses the  
15 allegation that the Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.11(b). *Heckler*  
16 *v. Chaney*, 470 U.S. 821, 831-32 (1985).

17 Maxwell Security and Cameo Hills admit making, and the Committee admits accepting,  
18 corporate contributions. In furtherance of the Commission's priorities relative to other matters  
19 pending on the Enforcement docket, the relatively modest amounts at issue, and remedial actions

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<sup>9</sup> 52 U.S.C. § 30104(b)(4); 11 C.F.R. § 104.3(b).

<sup>10</sup> 11 C.F.R. § 104.11(b); *see also* 52 U.S.C. § 30104(b)(8).

<sup>11</sup> The available information shows that Dana Distributors' event space cost \$150. Dana Distributors Resp. at 1, Ex. 1; Committee Resp. at 1, Ex. 1. Since the amount was less than \$500, the Committee was not required to report the debt or obligation until the time payment was made or not later than 60 days after such obligation was incurred, whichever comes first. 11 C.F.R. § 104.11(b).

- 1 taken, the Commission exercises its prosecutorial discretion and dismisses the allegation that
- 2 Maxwell Security, Cameo Hills, and the Committee violated 52 U.S.C. § 30118(a) and 11 C.F.R.
- 3 § 114.2(b). *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).